

VARIANCE JUSTIFICATION STATEMENT – BOARD OF ADJUSTMENT

PROPERTIES OUTSIDE OF A HISTORIC AREA

The following questions pertain to the criteria upon which the Board of Adjustment will consider this application, per LDR Section 2.4.7(A)(5). Please address each question separately as the answers provided will assist reviewing the proposal and can be included as part of the staff report presented to the Board:

☐ **JUSTIFICATION STATEMENT IS ATTACHED, WHICH ADDRESSES THE CRITERIA OF APPROVAL BELOW:**

a) Describe which special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning (The matter of economic hardship shall not constitute a basis for the granting of a variance):

b) Describe which literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning:

c) Explain how the special conditions and circumstances have not resulted from actions of the applicant:

d) Explain how granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance:

e) Describe the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure:

f) Explain how the granting of the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare:

g) Please provide any other comments and information which can be relevant or assist the Board in reviewing this request

Justification Statement

Button/Yeakle residence
245 NE 7th Avenue, Delray Beach, FL 33483
PCN 12-43-46-16-01-122-0010

The following questions pertain to the criteria upon which the Board of Adjustment will consider this application, per LDR Section 2.4.7(A)(5). Please address each question separately as the answers provided will assist reviewing the proposal and can be included as part of the staff report presented to the Board:

(a) Describe which special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning (The matter of economic hardship shall not constitute a basis for the granting of a variance):

The City is requesting a 5' right-of-way dedication on the west side of the property and a 15' right-of-way dedication on the north side of the property as the subject property is a corner lot. This will require the front of the house to be set back 40' from the property line. No other lots in the area have been required to have the front of the house set back 40' from the property line. Granting a variance to reduce the front set back to 10' will still require the front of the house to be set back 25' from the property line.

(b) Describe which literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning:

The requirement of the two right of way dedications and the subsequent application of Code Section 4.3.4(K) Development Standard Matrix makes it unfeasible to build a reasonable single family home of approximately 4000 square feet on the lot.

(c) Explain how the special conditions and circumstances have not resulted from actions of the applicant:

The special conditions and circumstances resulted from required right of way dedications imposed by the City of Delray Beach. Those required right of way dedications are 5' along NE 7th Avenue, and 15' along NE 3rd Street.

(d) Explain how granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance:

The granting of the variance will not confer a special privilege on the applicant for two reasons:

1. The applicant desires to build a new single family home of this lot which is the same as the existing use;

2. The applicant has a corner lot and is has unduly burdensome right of way dedications that reduce the size of the home that the applicant can build.

(e) Describe the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure:

The City is requesting a 5' right-of-way dedication on the west side of the property and a 15' right-of-way dedication on the north side of the property as the subject property is a corner lot. This will require the front of the house to be set back 40' from the property line. No other lots in the area have been required to have the front of the house set back 40' from the property line. Granting a variance to reduce the front set back to 10' will still require the front of the house to be set back 25' from the property line.

(f) Explain how the granting of the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare:

The granting of this variance will not be injurious to the neighborhood as the lot is currently between two adjacent two story structures. The intensity of use is single family and the zoning is RM-Residential. There is not another viable use for this lot at the present time other than a single family residence. Moreover, it is very unlikely that 3rd Street will be fully widened by 15', but the owner will comply with the proposed right of way dedication.

Please provide any other comments and information which can be relevant or assist the Board in reviewing this request:

The Applicants have owned the home since 1999. The new proposed home is being constructed by the long-time homeowner who intend to remain in the new residence for the foreseeable future. The desire to build a small single family residence in keeping with current trends on the small lot. However, the right of way dedications for both NE 7th Avenue and NE 3rd Street have created a hardship for the new proposed home. In good faith, the Applicant is not seeking relief from the side setback required on NE 7th Avenue as a result of the 5 foot dedication. However, they are seeking relief from the front setback required on NE 3rd Street resulting from the 15' right of way dedication.